IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

Bail Appl..No. 5213 of 2007()

CP.49/2007 of J.M.F.C.-II,NEYYATTINKARA
CRIME NO.148/1995 OF VIZHINJAM POLICE STATION

.....

PETITIONERS :

---

1. PODIKKANNU, S/O.PICHAKKANNU
AGED 54, RESIDING AT IQBAL MANZIL,
MALATHIL VILA, PULLOORKONAM, VIZHINJAM.

2. MUHAMMEDKANNU, S/O.S/O.PICHAKKANNU
AGED 44, RESIDING AT IQBAL MANZIL,
MALATHIL VILA, PULLOORKONAM, VIZHINJAM.

BY ADV. SRI.K.A.HASSAN

RESPONDENTS:

STATE OF KERALA, REP. BY THE
PUBLIC PROSECUTOR , HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.5213 of 2007

Dated this the 20th day of August, 2007

ORDER

The petitioners face allegations for offences punishable, inter alia, under Sections 302 and 153 (A) I.P.C. The alleged incident took place in 1995. Final report has been filed. Cognizance has been taken. Committal proceedings has been registered. The petitioners have not appeared before the learned Magistrate. Their application to excuse their absence was dismissed by the learned Magistrate. The case stands posted to 30.08.07.

2. According to the petitioners, they are absolutely innocent. Their absence earlier was not wilful. They are willing to surrender before the learned Magistrate and seek regular bail. But they apprehend that their application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. Therefore it is prayed that directions under Section 438 and/or 482 Cr.P.C may be issued in their favour.

3. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate

would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This application for anticipatory bail is, in these circumstances, dismissed, but with the specific observation that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-